



Musselshell Meadow Fence Reroute



Decision Memo

Musselshell Meadow Fence Reroute

U.S. Forest Service

Lochsa-Powell Ranger District, Nez Perce-Clearwater National Forest

Idaho County, Idaho

This decision incorporates all information in this document and included in the project file.

Decision

I have decided to authorize the activities described in the "Proposed Action" section, including the modifications indicated below that resulted from environmental analysis, as a result of public and tribal staff comment, and a review of regulatory compliance.

Modifications to the proposed action include adjustments to the length (less than proposed), slight adjustments to the location (feet of directional adjustment) of the fence (see Map 1). Additionally, geocells will be installed at the location where the fence will concentrate livestock use in the south pasture on the ephemeral drainage just north of the 100 road in order to mitigate potential disturbance in the drainage.

The modifications were made to address concerns associated with livestock-vehicle accidents, potential for increased erosion and headcutting adjacent to the new fence within the ephemeral drainage on the southeast of the meadow, and to increase the ease of early season fence maintenance and longevity of project materials (see MAP 1). The changes to the proposed action will result in less impacts on resources considered and resolve, in part, concerns raised by the livestock permittee and the Nez Perce Tribe.

Applicable Categorical Exclusion and Findings Required by Other Laws

The "Applicable Categories" section identifies the appropriate category/categories for this action and provides rationale for categorically excluding this action from documentation in an environmental assessment (EA) or environmental impact statement (EIS) and for using the identified category/categories. The "Environmental Analysis" section documents rationale to support my finding that no extraordinary circumstances exist, along with findings required by other applicable laws and regulations to demonstrate compliance with the regulatory framework for the activities authorized by this decision.

Agencies, Organizations and Persons Contacted

A list of Agencies, Organizations and Persons Contacted regarding this proposal is provided, along with a brief overview of comments/feedback received and how they were considered.

Implementation Date

I intend to implement the decision in the fall of 2021.

Administrative Review

Decisions that are categorically excluded from documentation in an environmental assessment or environmental impact statement are not subject to an administrative review process (Agriculture Act of 2014 [Pub. L. No. 113-79], Subtitle A, Sec. 8006).



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Contact

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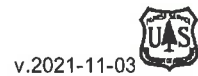
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Brandon Knapp

Lochsa-Powell District Ranger



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Categorical Exclusion Review

Project Information

Proposal Name: Musselshell Meadow Fence Reroute

Proposal Date: 2/4/2021

Project Contact: Crystal Dannar Planer

Responsible Official: Brandon Knapton, Lochsa-Powell District Ranger

Unit: Nez Perce-Clearwater National Forest

Ranger District: Lochsa-Powell Ranger District

Counties: Idaho County

State: Idaho

Anticipated Implementation: Fall of 2021

Signing Authority: District Ranger

Public web link: http://www.fs.fed.us/nepa/nepa_project_exp.php?project=59777

General Location: Fence reroute will begin on the along FS Road #535 near its junction with FS Road #100, then turn east to parallel FS Road #100 for nearly a mile before turning northwest to join and parallel FS Road #5150 for 1/3 mile.

Applicable Management Areas: E1 - Timber producing land to be managed for healthy timber stands to optimize potential timber growing. C4 - Big game winter range located generally on steep breaklands on north aspects supporting mixtures of browse and trees. (Clearwater Forest Plan, 1987)

Legal Description: T35N, R6E, Sections 19, 29, and 30

Elevation Range: 3182

Watersheds: 1706030603 Lolo, 17060306000720 Musselshell

Applicable Categories

This proposal is categorically excluded from documentation in an environmental assessment or environmental impact statement because it fits the following category or categories, pending extraordinary circumstance determinations:

Applicable Category or Categories:

36 CFR 220.6(e)(9) (DM Required) Implementation or modification of minor management practices to improve allotment condition or animal distribution when an allotment management plan is not yet in place.

This category is applicable for this project because replacing the failing fence and relocating portions onto more solid ground is required to maintain its functionality for excluding grazing from Musselshell Meadow.

Proposed Action



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The Nez Perce-Clearwater National Forest, in partnership with the Nez Perce Tribe's Watershed Division Lolo Restoration Project, proposes to reroute sections of existing fence surrounding Musselshell Meadow.

Musselshell Meadow fence was initially built in 1978 as an enclosure to restrict grazing from culturally significant and riparian areas and was later reconstructed in 2008. Portions of the fence visible to the public were constructed using post and pole, which did not prove to be durable under heavy snow loads and wet meadow conditions. The portions of the enclosure not as visible were constructed using barbed wire and steel and/or wood posts. In the past few years, the Nez Perce Tribe has worked in partnership with the Forest Service to convert the entire enclosure to high tensile and wood post to increase fence longevity and reduce maintenance requirements.

This proposed project would complement the ongoing effort described above by relocating sections of the fence out of areas seasonally inundated by water and/or covered by vegetation to drier sites, such as the toe of Forest Service Road 100 and the Forest Service Road 535 fill slope, that would allow for greater longevity and easier maintenance.

The Nez Perce Tribe would award a construction contract for a contractor to remove the existing fence and construct new high-tensile post and wire fence. The sections of fence proposed to be rerouted are subject to minor deviation based on terrain, vegetation, and structures (i.e. culverts) that may cause slight deviation from the mapped proposed fence location. All construction would be completed by hand with handheld tools. Roadways will remain clear, and no travel restrictions will be required.

Anticipated implementation for this phase of the replacement is fall of 2021. This fence is located within an active grazing allotment that accommodates 90 cow/calf pairs annually from June 10th through October 10th. If construction takes place during the grazing season, small sections will be removed so they can be reconstructed prior to the end of the workday, thus leaving no gaps for livestock to enter the meadow while workers are not present.

The Nez Perce Tribe's Watershed Division staff will coordinate with District Rangeland Management Specialist prior to implementation.

No joint USACE/IDWR 404 permit would be required to complete the project.

Design Elements

The following design elements are incorporated into the proposed action to ensure land management plan compliance:

Table 1. Design elements

Design Element Label	Design Element Description	Plan Component
A-1	<i>Known historic (NRHP Eligible/historically significant) properties or sites will be avoided or protected during project implementation. NP/CLW Forest Plan Standard</i>	Archaeology
A-2	Ground-disturbing activities would be halted if cultural resources are discovered until an Archaeologist can properly evaluate and document the resources in compliance with 36 CFR 800.	Archaeology

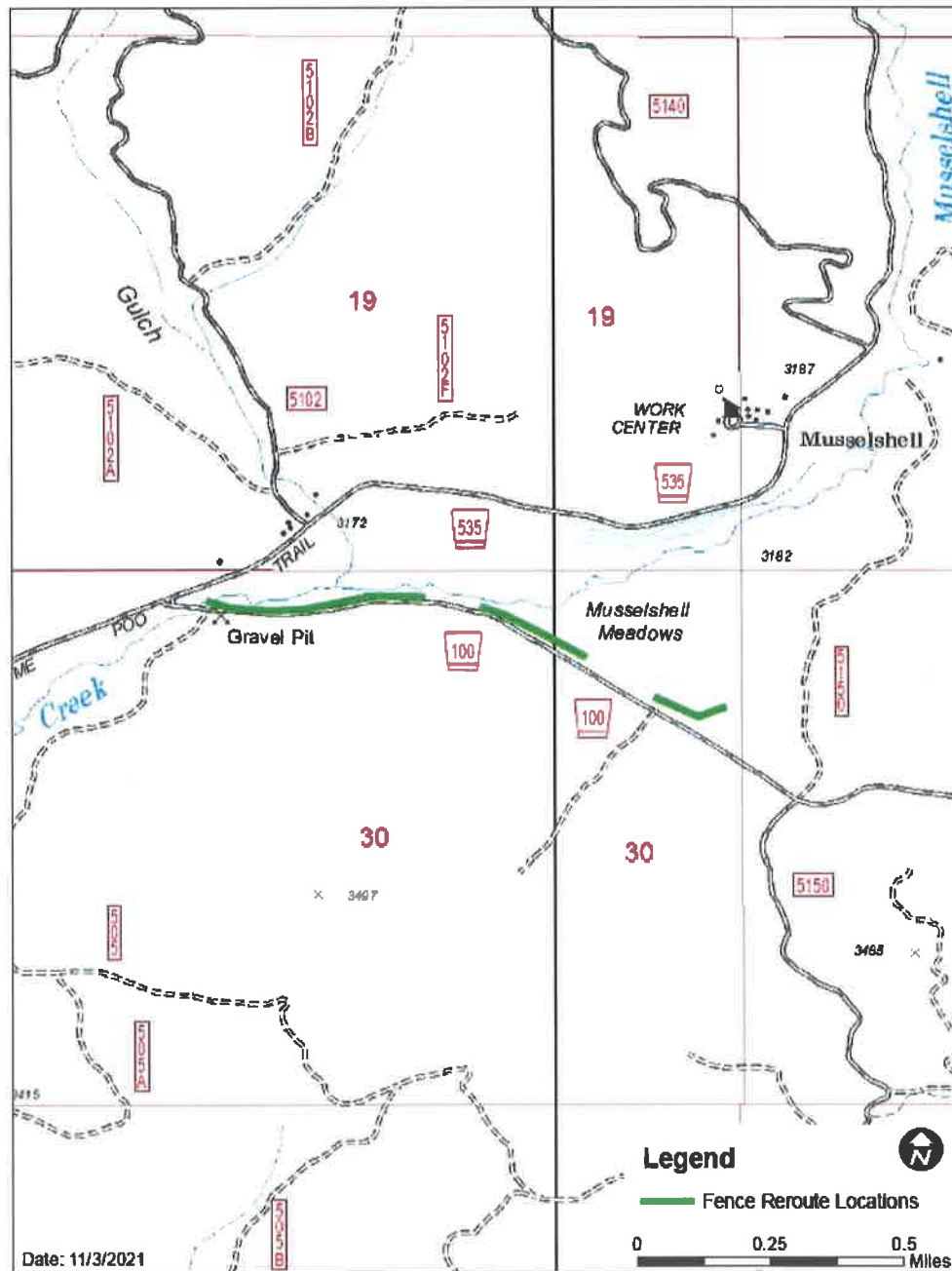


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Project Maps

Musselshell Meadow Fence Reroute



**Environmental Analysis [see below]****National Forest Management Act (NFMA) - Land Management Plan Consistency**

The pertinent specialists have reviewed the proposal, incorporating specific Design Elements listed above to ensure consistency with applicable land management plan direction. The following summarizes the analysis and conclusions supporting plan consistency.

Botany: The project will have an impact on potential habitat for some species of concern. The project fulfills plan direction to maintain a diversity of plants in the plan area and will not impact viability. There are no plant specific components in the current forest plan.

Cultural/Heritage: Forest-wide Standards from those listed on page II-22 and 23 of the **Clearwater National Forest Plan**.

Standard Number	Subject Summary	Explanation
a.	Conduct more intensive inventories on projects where management alternatives are limited...	This is an overall Heritage Program objective and not a project specific mandate.
b.	Identify and evaluate appropriate sites for nomination to the National Register of Historic Places, primarily in conjunction with surveys of potential impact project areas, but also backlog areas on a priority basis.	All National Register eligible properties have been previously identified and evaluated for the project area.
c.	Protect cultural resources from vandalism and other human depredation and natural destruction through signing, patrolling, and/or monitoring.	This is an overall Heritage Program objective and not a project specific mandate.
d.	Maintain significant historic facilities by listing them in the Forest's Facility Inventory data base and conducting periodic inspections. Maintenance needs are determined by historic value, potential reutilization, and economic considerations.	This is an overall Heritage Program objective and not a project specific mandate.
e.	Recommend to the State Historic Preservation Officer (SHPO) significant cultural resource sites potentially eligible...	All National Register eligible properties have been previously identified and evaluated for the project area.
f.	Interpret cultural resources that represent prominent persons, events, or processes in the Forest's, Nation's, and State's prehistory and history for public appreciation and education.	This is an overall Heritage Program objective and not a project specific mandate.
g.	Ensure that Forest actions are not detrimental to the protection and preservation of Indian Tribes religious and cultural sites and practices and treaty rights.	Government to government consultation has occurred.
h.	Stabilize cultural sites on a priority and opportunity basis.	No cultural resource sites requiring specific stabilization activities were identified within the area of potential effect associated with the current project area.
i.	Increase Cultural Resource Management data base by researching prehistoric and historic use of the Forest.	This is an overall Heritage Program objective and not a project specific mandate.

Fisheries:

Clearwater Forest Plan	
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i. Establish specific population or habitat recovery objectives for T & E species when sufficient biological information is available to do so. This is required in the absence of a formal recovery plan. (See FSM 2621.2.)	This project will add protection to the riparian area, which should be beneficial to Snake River Steelhead trout.
j. Cooperate with Idaho Fish and Game, Indian tribes, and other agencies in the management of wildlife and fish habitat.	This project is sponsored and implemented by the Nez Perce Tribe.
k. The following wildlife and fish species have been selected as indicator species on the Clearwater National Forest (Rationale for selection is displayed in the Environmental Impact Statement): Bald Eagle Pileated Woodpecker Gray Wolf Goshawk Grizzly Bear Pine Marten Elk Belted King Fisher Moose Steelhead Trout White Tailed Deer Chinook Salmon Westslope Cutthroat Trout Rainbow and Brook Trout (in some streams on Palouse Dist.) Bull Trout (Dolly Varden)	No effect to chinook salmon, Westslope cutthroat trout, rainbow trout or bull trout. May impact Steelhead trout.

Hydrology: The proposed project will move the fence from the meadow, improving meadow function. Additionally, the proposed project will make the fence more effective at excluding cattle from the meadow, inherently improving the meadow function.

Clearwater Forest Plan	
a. Secure favorable conditions of flow by maintaining the integrity and equilibrium of all stream systems in the Forest.	No effect on flow.
b. Manage water quality and stream conditions to assure that National Forest management activities do not cause permanent or long-term damage to existing or specified beneficial uses. (See Appendix K, Section A.)	No effect; the proposed action maintains stream conditions by limiting grazing in meadow.
c. Apply best management practices (BMP) to project activities to ensure water quality standards are met or are exceeded. (See Soil and Water Conservation Handbook in Forest Service Handbook 2509.22.)	BMPs will be implemented.
d. Manage all waters in the Forest under a basic standard. (See Appendix K, section B.) This standard will be supplemented where applicable by the standards in "e" or other criteria related to local uses or conditions.	Musselshell managed to High Fishable Standard.
e. In addition to standard d., manage all watershed systems in the Forest that are considered important for the fishery resource (anadromous and resident fish) to meet standards 1. through 4. below (In descending order of quality): (See Appendix K, Section B.) (1) No Effect - Applies to the Middle Fork of the Clearwater River (Forest boundary to the confluence of the Lochsa and Selway Rivers); the Lochsa River; White Sand Creek: Crooked Fork ; Brushy Fork (mouth to Spruce Creek); North Fork of the Clearwater River (low pool to Meadow Creek); Little North Fork Clearwater River; Kelly Creek; Weitas Creek (mouth to Windy Creek); Cayuse Creek (mouth to Howard Creek); Hungery Creek: and all the waters within wilderness. (2) High Fishable - Applies to most of the waters of the North Fork, Lochsa, and Powell Ranger Districts including most of the main tributaries of the North Fork of the Clearwater River, Little North Fork of	Musselshell Creek managed to High Fishable Standard; project will not add sediment to the stream and therefore will have no effect on the standard.



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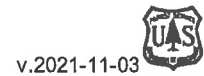
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<p>the Clearwater River, Kelly Creek, Cayuse Creek, Weitas Creek, Middle Fork of the Clearwater River, Lochsa River, White Sand Creek, Brushy Fork, and Crooked Fork; the main tributaries of Weitas Creek and Lolo Creek and its main tributaries on the Pierce Ranger District; and Elk Creek above Deer Creek on the Palouse Ranger District.</p> <p>(3) Moderate Fishable - Applies to some of the waters within the developed portion (roaded as of 1984) of the Canyon area of the North Fork Ranger District, including Beaver Creek; and to Middle Creek on the Pierce Ranger District.</p> <p>(4) Low Fishable - Applies to some of the waters within the developed portion (roaded as of 1984) of the Pierce Ranger District including Orofino Creek, French Creek, and Orogrande Creek; but excluding Lolo Creek and its tributaries (Yoosa Creek and Eldorado Creek).</p> <p>(5) Minimum Viable - Applies to most of the waters within the Palouse District including the mainstems of the Palouse River and the Potlatch River and their tributaries, except for the mainstem of Elk Creek above Deer Creek. (See item [2].)</p>	
<p>f. Monitor, analyze, and evaluate water quality within critical reaches of specified streams, which are generally third or fourth order streams with watersheds ranging from 4 to 40 square miles. A list of specific stream systems and their respective standards is in Appendix K, Section C. Unlisted streams will be evaluated at the area or project level, and additional criteria will be developed if appropriate, using public input.</p>	<p>This is an overall Hydrology Program objective and not a project specific mandate.</p>
<p>g. Design, schedule, and implement management practices at the project level that:</p> <p>(1) will maintain water quality and stream conditions that are not likely to cause sustained damage to the biological potential of the fish habitat.</p> <p>(2) will not reduce fish habitat productivity in the short-term below the assigned standards.</p> <p>(3) will maintain water quality in a condition that is not likely to inhibit recovery of the fish habitat for more than the stated duration (see Appendix K for these recovery periods); and</p> <p>(4) will require a watershed cumulative effects feasibility analysis of projects involving significant vegetation removal, prior to including them on implementation schedules, to ensure that the project, considered with other activities, will not increase water yields or sediment beyond acceptable limits. Also require that this analysis identify any opportunities for mitigating adverse effects on water-related beneficial uses, including capital investments for fish habitat or watershed improvement.</p>	<p>The proposed actions will not affect water quality or stream conditions, reduce fish habitat productivity, or remove significant vegetation. A watershed cumulative effects analysis is not necessary.</p>
<p>h. Where standards e(1), e(3), e(4), and e(5) have been exceeded prior to January 1984, design further management activity to re-establish the pre-project water quality and stream conditions and any pre-project recovery trends within 5 years of the activity. No further National Forest activities will be initiated that would result in any additional delays (beyond the 5 year delay) until the criteria are met, unless: 1) additional delays are fully justified and documented with social or economic considerations; or 2) it is unlikely that the Forest can affect water quality or the achievement of the water quality objectives due to actions beyond its control (i.e., other ownership activities, natural disasters, etc.).</p>	<p>This is an overall Hydrology Program objective and not a project specific mandate.</p>
<p>i. In watersheds with significant mixed ownership, major mining impacts, etc. improvement will be done through cooperative management schedules worked out with the appropriate landowners under coordinated leadership by the State of Idaho. The Forest will</p>	<p>This is an overall Hydrology Program objective and not a project specific mandate.</p>



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cooperate with other owners in mitigation of adverse effects, at least to the extent that Forest management activities have caused these adverse effects.	
j. Eliminate the watershed restoration backlog by 2000.	This is an overall Hydrology Program objective and not a project specific mandate.
k. Conduct nonpoint source activities in accordance with applicable best management practices as referenced in Idaho Water Quality Standards and Wastewater Treatment Requirements; and in Soil and Water Conservation Handbook in the Forest Service Handbook 2509.22.	BMPs will be implemented where applicable.
l. Determine instream flow requirements and assure that the activities comply with Forest Plan goals and standards when proposed activities have a potential of significantly altering the water flow, quantity, timing, or flow duration (i.e., hydropower development, major diversion or storage facilities, etc.).	The proposed actions will not alter water flow, quantity, timing, or flow duration.
m. Develop prescriptions on a case-by-case basis to ensure desired multiple-use outputs while recognizing domestic water supply needs in public supply watersheds. Encourage users to provide adequate and appropriate water treatment. Do not rely on management practices to provide pure drinking water.	This is an overall Hydrology Program objective and not a project specific mandate.
n. Consider existing water quality/fish habitat conditions in the analysis of proposed Forest projects in areas of mixed Forest ownership on the Powell District in the Kelly Creek watershed. The cumulative effects of the proposed National Forest activities combined with existing water quality conditions will not exceed Forest Standards.	This is an overall Hydrology Program objective and not a project specific mandate.

Soils:

Clearwater Forest Plan Standard	Project Compliance
a. Manage activities on lands with ash caps such that bulk densities on at least 85 percent of the area remain at or below 0.9 gram/cubic centimeter.	Project activities are neither expected to increase soil bulk densities nor disturb ash cap soils such that soil function will be detrimentally impacted.
b. Design resource management activities to maintain soil productivity and minimize erosion.	The proposed activities present little to no risk of loss in soil productivity or increase in erosion. In the long term, the project will benefit soil productivity and prevent erosion due to the continued restriction of grazing in the riparian area.
c. The minimum coordinating requirements for projects on land types with high or very high mass stability or parent material erosion hazard ratings are: (1) The field verification of the mapped unit and predicted hazard rating. (2) Review road locations using a team consisting of a engineering geologist, hydrologist, soil scientist, and a silviculturist. Assess concerns and possible mitigation measures to determine if a geotechnical Investigation is needed.	The proposed activities present little to no risk to soil mass movement or parent material erosion.



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(3) After the "P" line has been located, stake mitigating road designs, using the original ID team members and road designer.	
d. Review silvicultural prescriptions and unit locations on land type 50 (old slumps) to determine whether vegetation removal (timber harvesting) may contribute to slope instability.	This standard is not applicable; land type 50 does not occur within the project area, and no timber harvest will occur.
e. Give special attention to compacted glacial tills in the Powell area. When projects are proposed in areas where compacted tills are known to occur or suspected to occur, an intensive soil map will be prepared and ground verified. Mitigation measures should be applied that will assure that water tables will not be raised or that subsurface water will not be converted to surface flows. Measures will also be applied to assure that soil erosion and resulting lowering of soil productivity will not occur.	This standard is not applicable; compacted glacial tills do not occur within the project area.

Special Management Areas: National Historic Landmark goals as outlined on page III-19 and 20 in the 1987 **Clearwater Forest Plan**.

Goal Number	Subject Summary	Explanation
a.	Restrict hunter and outfitter guide camps that would conflict with use of primitive trail segments within the Fish and Hungry Creek drainages.	Does not apply to this project.
b.	Provide dispersed recreational sites suitable for camping or day use that will include sanitary facilities as needed. Provide for safe use of the sites.	Does not apply to this project.
c.	Conduct cultural resource studies and surveys which identify cultural resource values associated with the route.	This is an overall Heritage Program objective and not a project specific mandate.
d.	Provide interpretive services which enhance public understanding and appreciation of cultural values.	This is an overall Heritage Program objective and not a project specific mandate.
e.	Maintain and enhance cultural resource values.	This is an overall Heritage Program objective and not a project specific mandate.
f.	Manage visual resource to enhance visual appeal and to rehabilitate landscapes that do not meet adopted visual quality objectives.	Does not apply to this project.

National Historic Landmark standards as outlined on page III-19 and 20 in the 1987 **Clearwater Forest Plan**.

Standard Number	Subject Summary	Explanation
a.	Implement specific standards for site-specific management and protection of the historical values of the corridor as outlined in The Lolo Trail System Implementation Guidelines.	This is an overall Heritage Program objective and not a project specific mandate.
b.	Manage seen area to meet or exceed VQO's as listed in Appendix G.	This is an overall Heritage Program objective and not a project specific mandate.
c.	Mark routes of historic trails using standard historic trail sign sufficiently that users can locate and follow the entire route across the Forest.	Does not apply to this project.



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Wildlife: The project does not propose changes in access or any activities (vegetation or fuels treatments, road construction, reconstruction, temporary roads, and/or haul routes) which would affect key big game habitat features (elk licks, wallows, and calving areas), big game summer range, or big game winter range. Snags and old growth habitats would not be impacted and would continue to provide habitat for snag and old growth associated Management Indicator Species. This project would not drive wolf numbers below Recovery Plan objectives. There are no known bald eagle nests located near the project area. T&E species habitat (Canada lynx and grizzly bear) is not present within the project area as a result the project would have no effect on these species. There ARE NO WILDLIFE Standards associated with Management Area C3. Wildlife Standards for Management Area E1 are to manage for a minimum 25% Elk Habitat Effectiveness (EHE). As stated above the project does not propose activities which would affect EHE.

Table 2. Applicable project file documentation to support land management plan compliance

Supporting Documentation	File Name(s) / Link
Clearwater Forest Plan 1987	\\Box\1900Planning\1920LandMgmtPlng\ClearwaterForestPlan1987\ForestPlan
MusselshellFenceReroute_WildlifeBABE	http://www.fs.fed.us/nepa/nepa_project_exp.php?project=59777 , Wildlife BABE
CLW FP Goal_Obj_Stand_Wildlife	1900Planning\NEPAProjects\All Small NEPA\LochsaPowellDistrict\MusselshellMeadowFence(LP)\D_Analysis
CLW FP MA Goals_Standards_Wildlife	1900Planning\NEPAProjects\All Small NEPA\LochsaPowellDistrict\MusselshellMeadowFence(LP)\D_Analysis

Other Law, Regulation and Policy Consistency

The following laws, regulations, or policies pertinent to this project include:

Clean Air Act

This project will comply with the provisions of the Clean Air Act, and with the rules, regulations, and permit procedures of the Environmental Protection Agency and the Idaho Department of Environmental Quality.

Clean Water Act

The Clean Water Act stipulates that States adopt water quality standards. Included in these standards are provisions for identifying beneficial uses, establishing the status of beneficial uses, setting water quality criteria, and establishing BMPs to control nonpoint sources of pollution. EO 12088 also requires the Forest Service to meet the requirements of the Clean Water Act.

Section 313 of the Clean Water Act requires federal agencies to comply with all federal, state, interstate, and local requirements with respect to control and abatement of water pollution, and to cooperate with relevant processes and sanctions and administrative authority.

Section 303(d) of the Clean Water Act stipulates that States must identify and prioritize water bodies that are water quality limited (i.e., water bodies that do not meet water quality standards). For waters identified on this list, states must develop a total maximum daily load (TMDL) for the pollutants, set at a level to achieve water quality standards.

The proposed project is consistent with all applicable State and Federal water quality laws because the proposed actions will not affect water resources. Proposed actions do not include road work, timber harvest, or other ground disturbing activities; all proposed actions will be implemented by hand. Additionally, excluding livestock from the meadow has long term benefits to water resources.



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Endangered Species Act - Threatened, Endangered, Proposed and Candidate Species and Critical Habitat

Table 3. Threatened, endangered, proposed or candidate species and critical habitat effect determinations

Species/Habitat	Status	Proposed or Designated Critical Habitat Present?	Determination	Brief Rationale (or refer to other project documentation)
Canada Lynx	Threatened	No	NE	See wildlife BA.
Grizzly Bear	Threatened	No	NE	See wildlife BA.
Snake River Sockeye Salmon	Endangered	No	NE	See habitat restoration programmatic BO.
Snake River Fall Chinook	Threatened	No	NE	See habitat restoration programmatic BO.
Snake River Steelhead Trout	Threatened	No	NE	See habitat restoration programmatic BO.
Bull Trout	Threatened	No	NE	See habitat restoration programmatic BO.
Spring/summer Chinook	Threatened	No	NE	See habitat restoration programmatic BO.
Water howellia	Threatened	No	NE	No habitat in project area.
Macfarlane's four-o'clock	Threatened	No	NE	No habitat in project area.
Spalding's Catchfly	Threatened	No	NE	No habitat in project area.
Whitebark Pine	Proposed Threatened	No	NE	No habitat in project area.

NE – no effect; **NLAA** – may affect, not likely to adversely affect; **LAA** – may affect, likely to adversely affect; **No Jeopardy** - not likely to jeopardize the continued existence or adversely modify critical habitat

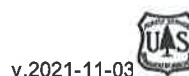
Supporting Project Documentation

Table 4. Applicable project file documentation to support Endangered Species Act compliance

Supporting Documentation	File Name(s) / Link
Musselshell Fence Reroute Botany BA	http://www.fs.fed.us/nepa/nepa_project_exp.php?project=59777 , Botany BABE
Musselshell Fence Reroute Wildlife BABE	http://www.fs.fed.us/nepa/nepa_project_exp.php?project=59777 , Wildlife BABE
Fisheries Programmatic BO	http://www.fs.fed.us/nepa/nepa_project_exp.php?project=59777 , 20190311IdahoHabProgBO



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Sensitive Species (FSM 2670)

Table 5. Sensitive species impact determinations

Species	Determination*	Rationale (or refer to project documentation)
Botany	NI & MI	http://www.fs.fed.us/nepa/nepa_project_exp.php?project=59777 , Botany BABE.
Fisheries	NI	
Wildlife	MIH	http://www.fs.fed.us/nepa/nepa_project_exp.php?project=59777 , Wildlife BABE.

NI – no impact; MIH – may impact individuals or habitat, but will not likely contribute to a trend towards federal listing or loss of viability to the population or species; WIFV – will impact individuals or habitat with a consequence that the action may contribute to a trend towards federal listing or cause a loss of viability to the population or species

Supporting Project Documentation

Table 6. Applicable project file documentation to support agency sensitive species compliance

Supporting Documentation	File Name(s) / Link
Musselshell Fence Reroute Botany BE	http://www.fs.fed.us/nepa/nepa_project_exp.php?project=59777 , Botany BABE.
Musselshell Fence Reroute Wildlife BABE	http://www.fs.fed.us/nepa/nepa_project_exp.php?project=59777 , Wildlife BABE.

Special Management Areas (for example, Wilderness, Roadless, Wild and Scenic Rivers, etc.) Proponent

Table 7. Special management area compliance determinations

Management Area Type	Applicable Law / Regulation to Demonstrate Compliance With	Rationale for Compliance
National Historic Landmark	36CFR800.10	Special requirements for protecting National Historic Landmarks. According to 36CFR800.10, the agency official has to the maximum extent possible, undertaken such planning and actions as may be necessary to minimize harm to any National Historic Landmark that may be directly and adversely affected by an undertaking.

Supporting Project Documentation

Table 8. Applicable project file documentation to support special management area compliance

Supporting Documentation	File Name(s) / Link
36CFR800.10	https://www.achp.gov/sites/default/files/regulations/2017-02/regs-rev04.pdf

National Historic Preservation Act – Section 106 Review

No potential to cause effects - 36 CFR 800.3(a)(1). The proposal is a type of activity that does not have the potential to cause effects on any kind of prehistoric or historic resource, even if such resources were in the project area.



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Comments

Per 36 CFR 800.3a1 - the Forest Cultural Resource Specialist has determined the project does not have the potential to cause effects to historic properties, assuming such historic properties were present. Therefore, the Forest Service has no further obligations regarding National Historic Preservation Act compliance. No American Indian religious or cultural site was identified by the Tribal Historic Preservation Officer within the area of potential effects associated with the project.

Supporting Project Documentation

Table 9. Applicable project file documentation to support National Historic Preservation Act compliance

Supporting Documentation	File Name(s) / Link
Cultural Resource Compliance document	http://www.fs.fed.us/nepa/nepa_project_exp.php?project=59777 , Heritage Concurrence.

Government to Government Consultation (EO 13175)

The responsible official identified the following regarding Government to Government consultation:

Government to Government Tribal consultation completed

Comments

To ensure tribal trust responsibilities are honored, the Nez Perce-Clearwater National Forests are committed to providing early and frequent opportunities for tribal engagement. District Rangers, Forest staffs and Nez Perce Tribe staffs meet quarterly to identify opportunities for collaboration and potential issues. Issues identified that cannot be resolved at the staff level are elevated to the appropriate line officer and elected tribal officials for formal consultation. The Nez Perce Tribe has the opportunity to request that any project be presented at the Quarterly Meetings and assist in developing meeting agendas. In the event a decision timeline does not fit within the Quarterly Meeting schedule, tribal staffs are encouraged to contact the IDT leader or District Ranger to answer specific questions or to arrange a project-specific meeting. The Nez Perce - Clearwater National Forests sent a scoping letter to the Nez Perce Tribe on May 6, 2021. This project was not requested to be discussed at the Nez Perce Tribe and Forest Service quarterly meetings, and the Nez Perce Tribe has not identified any issues requiring Consultation. Further, this project was developed in partnership with the Nez Perce Tribe Watershed Division.

Supporting Project Documentation

Table 10. Applicable project file documentation to support Tribal consultation compliance

Supporting Documentation	File Name(s) / Link
Nez Perce Tribe Scoping Letter	http://www.fs.fed.us/nepa/nepa_project_exp.php?project=59777 Scoping Tab, 20210506_ScopingLetter_NezPerceTribe

Relevant Executive Orders

The responsible official determined the proposal complies with the following Executive Orders, which were deemed relevant based on the nature of the proposal.

Below is a list of Executive Orders that typically apply to Forest Service proposals. Links to all Executive Orders can be found in the [Federal Register](https://www.archives.gov/federal-register/executive-orders/disposition) (<https://www.archives.gov/federal-register/executive-orders/disposition>). You can address these in the National Forest Management Act (NFMA) - Land



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Management Plan Consistency section, Extraordinary Circumstances section, or you can provide a brief summary of compliance here. Delete those that are not applicable or are addressed in another section.

EO 11988, Floodplain Management – requires determination of action occurring in a floodplain, using HUD floodplain map or more detailed map if available.

EO 11988 directs the Forest to *"restore and preserve the natural and beneficial values served by floodplains"*. The Musselshell Meadow Fence Reroute project would not modify or occupy floodplains to an extent greater than what already exists. Moving the fence out of the meadow reduces the impact to the meadow. As such, there would be no adverse impacts to floodplains, thereby complying with EO 11988.

EO 11990, Protection of Wetlands – avoid actions within wetlands unless there are no practical alternatives, and the action includes all practicable means to minimize harm to wetlands.

EO 11990 directs the Forest to *"minimize the destruction, loss or degradation of wetlands"*. The Musselshell Meadow Fence Reroute project would not modify wetlands. As such, this project would not adversely affect wetlands, thereby complying with EO 11990.

EO 12898, Environmental Justice – identify and address disproportionately high and adverse effects on minority and low-income populations.

This project was developed in partnership with the Nez Perce Tribe Watershed Division. The transparent, non-exclusive collaborative process used to develop this project, as well as consultation with the Nez Perce Tribe, ensured fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. No environmental justice issues were identified for this project, as it is not expected to lead to disproportionately high and adverse impacts on minority or low-income populations.

EO 13007, Indian Sacred Sites – avoid adversely affecting the physical integrity of these sites.

No Indian Sacred Sites will be adversely affected from the project.

EO 13175, Consultation and Coordination with Indian Tribal Governments - agencies consult with Indian tribes and respect tribal sovereignty as they develop policy on issues that impact Indian communities.

This is addressed above under Government to Government Consultation Executive Order 13175.

EO 13112, Invasive Species – prevent the introduction of invasive species and provide for their control and to minimize the economic, ecological, and human health impacts that invasive species cause.

If Idaho state-listed noxious weeds are encountered, the proponent will treat using hand-pulling methods according to the species treatment category. Any treatment information will be shared with the District Rangeland Management Specialist

EO 13186, Migratory Birds – identify actions that may have a measurable negative effect on migratory bird populations.

None.

EO 13443, Facilitation of Hunting Heritage and Wildlife Conservation – expand and enhance hunting opportunities.

N/A.



Extraordinary Circumstance Determinations

Pertinent specialists have reviewed the proposal and made the following determinations with regards to degree of effects for the resource conditions considered:

Table 11. Resource conditions considered for extraordinary circumstance determinations

Resource Conditions Considered for Extraordinary Circumstances	Is there a degree of potential effect that raises uncertainty over its significance? Briefly explain.
Federally listed threatened or endangered species, designated critical habitat, and Forest Service sensitive species	<p>Botany: NO, there is no uncertainty Rationale for yes/no: Suitable habitat is present and occurrences are possible. Due to extensive habitat in the vicinity there are no concerns for viability of species should they be present.</p>
	<p>Fisheries: NO, there is no uncertainty Rationale for yes/no: Designated critical habitat exists downstream of the project area, however, no activities are planned in the stream channel and the work is handwork only, which should prevent impacts to fisheries.</p>
	<p>Wildlife: NO, there is no uncertainty Rationale for yes/no: See wildlife BABE.</p>
Floodplains, wetlands, or municipal watersheds	<p>NO, there is no uncertainty Rationale for yes/no: Wetlands are present in the meadow. The project will improve the meadow by moving the fence out of the meadow and will be more effective at excluding cattle from the meadow. No municipal watersheds or delineated floodplains are present in the project area.</p>
Congressionally designated areas, such as wilderness, wilderness study areas, national recreation areas, wild and scenic rivers, or national historic trails	<p>NO, there is no uncertainty Rationale for yes/no: The National Historic Landmark will not be adversely affected from project activities.</p>
Inventoried roadless areas	<p>N/A, not present Rationale for yes/no: N/A, not present.</p>
Research natural areas	<p>N/A, not present Rationale for yes/no: N/A, not present.</p>
American Indians and Alaska Native religious or cultural sites	<p>N/A, not present Rationale for yes/no: No American Indian or Alaska Native religious or cultural sites are known to be present.</p>
Archaeological sites, or historic properties or areas	<p>NO, there is no uncertainty Rationale for yes/no: No sites will be adversely affected from project activities.</p>



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v.2021-11-03



Supporting Project Documentation

Table 12. Applicable project file documentation to support NEPA compliance

Supporting Documentation	File Name(s) / Link
Musselshell Fence Reroute Botany BA	http://www.fs.fed.us/nepa/nepa_project_exp.php?project=59777 , Botany BABE
MusselshellFenceReroute_WildlifeBABE	http://www.fs.fed.us/nepa/nepa_project_exp.php?project=59777 , Wildlife BABE
Fisheries Programmatic BO	http://www.fs.fed.us/nepa/nepa_project_exp.php?project=59777 , 20190311IdahoHabProgBO
36CFR800.10	https://www.achp.gov/sites/default/files/regulations/2017-02/regs-rev04.pdf
Cultural Resource Compliance document	http://www.fs.fed.us/nepa/nepa_project_exp.php?project=59777 , Heritage Concurrence.

Agencies, Organizations and Persons Contacted

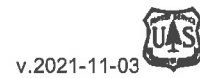
The responsible official contacted the following interested and affected agencies, organizations, and persons about this project: mailing lists are available in the project record.

Based on input from the Nez Perce Tribe and the public, I have made the modifications listed above in the "Decision" section. These modifications were made to address concerns associated with potential livestock-vehicle accidents, potential for erosion and headcutting adjacent to the fence, and to assist with early season maintenance and longevity of project materials. Changes in the proposed action will result in less impacts to resources.

I have reviewed the remaining comments submitted for this proposal and none lead to the identification of extraordinary circumstances.



Musselshell Meadow Fence Reroute



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